

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BRITTNEY RUDLER,)
Plaintiff,)
)
v.) NO.: 19 CV 2170 (LDH) (LB)
)
)
MLA LAW OFFICES, LTD., et. al.,)
Defendants.)

DEFENDANTS' MOTION TO VACATE DEFAULT

NOW COMES the Defendant MLA Law Offices, Ltd. ("MLA") by and through its attorney, John L. Malevitis, Esq. of MLA Law Offices, Ltd., and Defendant John L. Malevitis, Esq., Pro Se, ("Malevitis") and in support of their Motion to Vacate Default, here states as follows:

1. MLA and Malevitis received a copy of the Plaintiff's Complaint after the process server and/or agent hired by the plaintiff's attorney placed the documents on the front steps of the Malevitis residence and failed to properly and/or personally serve either of the Defendants. (Copies of photographs of the process server and/or agent are attached hereto and incorporated herein as Group Exhibit "A").

2. Accordingly, MLA and Malevitis have never been personally served with summons and complaint despite the representations of the plaintiff's attorney that the defendants were properly served at the time a default was requested of the Court.

3. On September 18, 2019 Malevitis corresponded with plaintiff's counsel and advised that proper service was not made on either defendant. (A copy of the correspondence is attached hereto and incorporated herein as Exhibit "B").

4. On October 17, 2019 Malevitis again corresponded with plaintiff's counsel and

requested that measures be taken to correct the defective complaint filed against Malevitis and MLA. The plaintiff's attorney however did not file an amended complaint and/or take any action to address the contentions raised by the defendants in the above-referenced correspondence.

5. MLA requests that this Court enter an Order vacating the default entered and allowing the Defendants to answer or otherwise plead to the Plaintiff's Complaint.

WHEREFORE, Defendant MLA Law Offices, Ltd., and Defendant John L. Malevitis, Pro Se, by and through their attorney, John L. Malevitis, Esq. of MLA Law Offices, Ltd., respectfully requests that this court enter an Order vacating all default, technical or otherwise, and allowing time to answer or otherwise plead to the Plaintiff's Complaint.

Respectfully submitted,

s/ John L. Malevitis, Esq.

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